IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 8851 of 1996

Between:

M/s Essanial Industries, rep. by its Lessee

SriSuresh Kumar Sanghi, Kattedan I.D.A.

Rajendranagar mandal,Ranga Reddy District.

..... PETITIONER

AND

1.A.P.State Electricity Board, rep. by its

Secretary,Vidyut Soudha,Somajiguda, Hyderabad.

2.The Chief Engineer, Electricity, Metropolitan Zone,

APSEB, Mint compound, Hyderabad.

3.The Superintending Engineer,Assessments

(Special) APSEB, Vidyut Soudha,Somajiguda,

Hyderabad.

4.The Assistant Divisional Engineer, Operation,

APSEB, Ibrahimbagh, Hyderabad.

5.The Assistant Accounts Officer,E.R.O.

RuralWest,APSEB, Hyderabad.

6.The Asst. Divisional Engineer, D.P.E.-II

APSEB, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Certiorari or other appropriate writ order or direction calling for the records relating to and quash the order of the 3rd respondent Superintending Engineer, Assessment, APSEB, Hyderabad, in Order No.SEA/Hyd/F.SBD-372 (Spl.)/SAT-5301 dated 25-8-1995 as confirmed by the order of the 2nd respondent in Lr.No.CE/MZ/Hyd/SMRT/T/F/PE/D.No.353/96 dated 23-3-1996.

Counsel for the Petitioner: MR.N.JAYASURYA

Counsel for the Respondents.: SMT.M.VINOBHA DEVI, STANDING COUNSEL FOR APSEB

The Court made the following:

ORDER

Heard the learned counsel for the petitioner and also the learned Standing Counsel appearing on behalf of the respondents.

The petitioner, which is an industry, files this Writ Petition *inter alia* seeking to assail the impugned orders passed by the 3rd respondent dated 25-8-1995 as confirmed by the 2nd respondent dated 23-3-1996 as bad and illegal.

The case of the petitioner in brief is that initially the petitioner took the premises on lease on 1-7-1994. Thereafter on

21-5-1995, the premises was inspected by the 6th respondent and having found certain defects, the meter was replaced with a new one on 22-5-1995. However, having found that there is excess load and the section phase was not working, an initial assessment was made by issuing a notice on 25-5-1995 followed by a show cause notice dated 20-6-1995. By taking into consideration the explanation filed, final assessment was made on 25-8-1995 assessing the damage caused to the Board at Rs.4,65,010/-. In appeal, the Appellate Authority confirmed the said orders and dismissed the appeal on 23-3-1996. The case of the petitioner is that the main allegation which is ultimately boiled down is in respect of meter reading and the allegation made earlier in regard to the excess load was actually given up by the Board. However, having regard to the fact that the meter was found intact, no such allegation could have been possibly made. The said plea was rejected by both the authorities on the ground of existence of two separate nature of seals and therefore, the same cannot be accepted.

Having considered the submissions made and on perusal of material, it is seen that there is no dispute to the fact that there has been certain defects in the meter and so the allegation in regard to the excess load was given up. Both the authorities on appraisal of the submissions made did not find in favour of the petitioner and held that the petitioner is responsible for the loss caused to the Board. However, on a totality of the circumstances, it is seen that there is no serious allegations made against the petitioner for which he should be held responsible and it is only because of a defect in the meter which was replaced by a new one. Therefore, it cannot be said that the assessment as made to an extent of Rs.4,65,010/- is reasonable and reflect the actual loss sustained by the Board.

It is submitted by the learned counsel for the petitioner that during the pendency of these proceedings, the petitioner already deposited more than half

of the amount as assessed. However, the amount as ultimately determined is on higher side. It would meet the ends of justice that it can be reduced to 50%. Therefore, the amount assessed to an extent of Rs.4,65,010/- is reduced to Rs.2,32,505/-

Accordingly, the Writ petition is partly allowed to the extent of the reduction of the amount. No costs.

02-12-2004.

Hsd

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Thursday, the Second day of December, Two Thousand and Four.

Asst. Registrar.

To

1.The Secretary,A.P.State Electricity Board,

Vidyut Soudha,Somajiguda, Hyderabad.

2.The Chief Engineer, Electricity, Metropolitan Zone,

APSEB, Mint compound, Hyderabad.

3.The Superintending Engineer,Assessments

(Special) APSEB, Vidyut Soudha,Somajiguda,

Hyderabad.

4.The Assistant Divisional Engineer, Operation,

APSEB, Ibrahimbagh, Hyderabad.

5.The Assistant Accounts Officer,E.R.O.

RuralWest,APSEB, Hyderabad.

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